

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	May 22, 2018 / 12:07 am / 5414 West Chicago Avenue, Chicago, Illinois 60651
Date/Time of COPA Notification:	May 22, 2018/ 6:49 pm
Involved Officer #1:	Officer [REDACTED], # [REDACTED], Employee ID# [REDACTED], Date of Appointment: [REDACTED], 2015, Rank: Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1976, Gender: Male, Race: White
Involved Officer #2:	Officer [REDACTED], # [REDACTED], Employee ID# [REDACTED], Date of Appointment: F [REDACTED], 2016, Rank: Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1984, Gender: Male, Race: White
Involved Officer #3:	Officer [REDACTED], # [REDACTED], Employee ID# [REDACTED], Date of Appointment: [REDACTED], 2016, Rank: Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1992, Gender: Male, Race: White
Involved Officer #4:	Sergeant [REDACTED], # [REDACTED], Employee ID# [REDACTED], Date of Appointment: [REDACTED], 1998, Rank: Sergeant, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1974, Gender: Male, Race: White
Involved Individual #1:	[REDACTED], DOB: [REDACTED], Gender: Male, Race: Black
Case Type:	Allegation of Improper Stop/Search of Person and Vehicle

¹ COPA investigated this complaint. As part of COPA's ongoing efforts to increase case closure capacity, certain cases, such as this one, are summarized more succinctly in a Modified Summary Report of Investigation.

I. ALLEGATIONS²

Officer	Allegation	Finding
Officer [REDACTED]	<p>On or about May 22, 2018, at approximately 12:07 am, at or near 5414 West Chicago Avenue, Chicago, IL, Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] without justification; 2. Searched [REDACTED] vehicle without justification; 3. Searched [REDACTED] person without justification; and/or 4. Used excessive force to remove [REDACTED] from his vehicle without justification. 	<p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Exonerated</p>
Officer [REDACTED]	<p>On or about May 22, 2018, at approximately 12:07 am, at or near 5414 West Chicago Avenue, Chicago, IL, Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] without justification; 2. Searched [REDACTED] vehicle without justification; 3. Searched [REDACTED] person without justification; and/or 4. Used excessive force to remove [REDACTED] from his vehicle without justification. 	<p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Exonerated</p>
Sergeant [REDACTED]	<p>On or about May 22, 2018, at approximately 12:07 am, at or near 5414 West Chicago Avenue,</p>	

² Formal allegations were not served on officers.

Chicago, IL, Sergeant [REDACTED] committed misconduct through the following acts or omissions:

1. Detained [REDACTED] without justification; and/or
2. Used excessive force to remove [REDACTED] from his vehicle without justification.

Exonerated

Exonerated

II. SUMMARY OF EVIDENCE³

Upon review of the collected evidence, COPA finds that the following is most likely to have occurred.

The Complainant, [REDACTED] (“[REDACTED]”), alleges that Officers [REDACTED] (“Officer [REDACTED]”) and [REDACTED] (“Officer [REDACTED]”): 1.) stopped [REDACTED], without justification; 2.) searched [REDACTED] person and his vehicle, without justification; and 3.) used excessive force to remove [REDACTED] from his vehicle.

At the time of the incident, [REDACTED] had been driving a [REDACTED] when Officers [REDACTED] and [REDACTED] stopped [REDACTED] for a license plate light violation.⁴ Body-worn camera (“BWC”) and in-car camera (“ICC”) footage captured the stop.⁵ [REDACTED] pulled over near 5414 West Chicago Avenue. Officer [REDACTED] approached the driver’s side door of [REDACTED] van. The driver’s side window was halfway down, and Officer [REDACTED] asked [REDACTED] to lower his window down even more. [REDACTED] refused to lower the window. Nevertheless, Officer [REDACTED] informed [REDACTED] that the stop was due to a nonilluminated rear license plate. [REDACTED] contested this with Officer [REDACTED], asserting that his plate was dimly illuminated, adding that he encountered the same problem last night with a different officer. Officer [REDACTED] requested [REDACTED] driver’s license and proof of insurance. [REDACTED] complied by providing an insurance card and a temporary driver’s license.

Officer [REDACTED] then returned to his vehicle to perform a name check on [REDACTED]. Following the name check, which revealed that [REDACTED] was possibly the subject of a warrant, the officers returned to [REDACTED] vehicle and asked [REDACTED] to exit his vehicle. [REDACTED] refused to exit the vehicle. With a raised voice, [REDACTED] argued with Officer [REDACTED] about not being required to turn off his engine and step from the vehicle.

³ This section contains a summary of the material evidence gathered during the investigation.

⁴ “The registration plate at the back of every motorcycle and every motor vehicle shall be so lighted that the numbers on said plate shall be plainly legible and intelligible at a distance of 50 feet.” See *Municipal Code of Chicago* § 9-76-050 (d).

⁵ Attachment 22.

Meanwhile, Sergeant [REDACTED] ("Sgt. [REDACTED]") arrived to assist Officers [REDACTED] and Officer [REDACTED]. Sgt. [REDACTED] approached and asked [REDACTED] multiple times to exit his vehicle. With a raised voice, [REDACTED] argued back that he complied with the traffic stop, and therefore, he was not required to exit his vehicle. After approximately three minutes, additional officers arrived on the scene to assist with the stop. Soon thereafter, Sgt. [REDACTED] asked [REDACTED] to put his hands on the steering wheel; instead, [REDACTED] placed his hands through driver's side window frame and outside of the vehicle. Sgt. [REDACTED] then grabbed [REDACTED] arms and told [REDACTED] to step out of the vehicle. Officer [REDACTED] placed handcuffs on [REDACTED]. [REDACTED] is pulled from the vehicle as he questions the officers as to why they are pulling him out of the vehicle.

Once [REDACTED] is out of the vehicle, Officer [REDACTED] conducted a cursory search of the front driver's area of [REDACTED] vehicle as the other officers escorted [REDACTED] to the backseat of a police vehicle where [REDACTED] was detained in the backseat.

Once in the vehicle, officers tried to confirm [REDACTED] identity. [REDACTED] and Officer [REDACTED] exchanged words in which [REDACTED] informed Officer [REDACTED] that a person named "[REDACTED]" used an alias under [REDACTED] name. As this exchange occurs, Officer [REDACTED] searched LEADS database to confirm this information. [REDACTED] informs the officers that unlike the real [REDACTED] he does not have any tattoos. Officer [REDACTED] then searched [REDACTED] person for any tattoos and confirmed that [REDACTED] had no tattoos.

Finally LEADS information coupled with [REDACTED] lack of tattoos established that [REDACTED] was not wanted on a warrant. [REDACTED] was release soon thereafter.

III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal

offense. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

IV. ANALYSIS AND CONCLUSION

1.) Detention

COPA finds that the detention of [REDACTED] was not an act of misconduct.

i. The Initial Detention of [REDACTED]

The Municipal Code of Chicago required [REDACTED] to clearly illuminate the rear license plate on his vehicle⁶ While COPA finds that the evidence establishes that [REDACTED] illuminated his rear plate, we also find the same evidence establishes that any illumination of [REDACTED] rear plate was not apparent. Importantly, [REDACTED] asserted that license plate light was functional, however, [REDACTED] admitted that his rear plate was only dimly illuminated. [REDACTED] further admitted to having been previously stopped by a different officer the preceding night for the same reason. When considering these factors, we find the involved officers’ belief that [REDACTED] plate was not illuminated as required to be reasonable. Therefore, the officers had reasonable suspicion to temporally detain [REDACTED] to further investigate the suspected infraction of local law.

i. Length of Detention

During the stop, the involved officers performed a customary name check on [REDACTED]. This check revealed that [REDACTED] was possibly the subject of a warrant. Properly, the officers then took steps to confirm or dispel this suspicion.

Initially, the officers asked [REDACTED] to exit the vehicle – an action the officers could legally take. [REDACTED] refusal to exit the vehicle extended his detention. [REDACTED] was then physically removed from his vehicle by the involved officers. (This physical removal is addressed below.) Once removed, [REDACTED] informed the officers that a person named [REDACTED] uses an alias under [REDACTED] name. Officers then confirmed this with information from the LEADS database and a physical search of [REDACTED] for tattoos. The search revealed that [REDACTED] did not have any tattoos on his arms and hands and therefore did not match the description of the wanted individual. [REDACTED] was released shortly thereafter.

When considering these factors collectively, we conclude that the detention was reasonable in duration under the circumstances.

⁶ “The registration plate at the back of every motorcycle and every motor vehicle shall be so lighted that the numbers on said plate shall be plainly legible and intelligible at a distance of 50 feet.” See *Municipal Code of Chicago* § 9-76-050 (d).

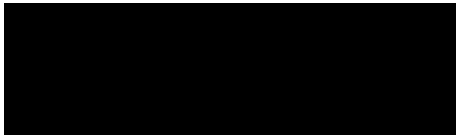
2.) *Search of Vehicle/Person*

A short, limited search of the driver's compartment of [REDACTED] van and a protective pat-down of [REDACTED] occurred. Nevertheless, COPA finds that in this instance there is insufficient evidence to establish by a preponderance that these searches amount to misconduct, or that the searches were clearly and convincingly lawful. While it is factually certain that [REDACTED] was not compliant during the stop, and that at the time of both searches [REDACTED] was suspected of being a wanted individual, it is also factually unclear from the evidence why the involved officers specifically thought [REDACTED] was possibly armed and dangerous. Due to these evidentiary deficiencies, and the level of factual clarity required to determine whether an individual's 4th amendment rights were violated, COPA has reached a finding of not sustained in this case.

3.) *Excessive Force*

The CPD's use of force policies govern how and when its officers may use force. Applicable to this situation, CPD policy permits an officer to use to holding techniques, i.e., a firm grip, grabbing an arm, wristlocks, and come-along holds, against a Passive Resister, defined as a person who fails to comply (non-movement) with verbal or other direction.⁷ The facts show that [REDACTED] did not comply with the officers' verbal direction to exit the vehicle. Therefore, the officers' physical action of pulling [REDACTED] from the vehicle was permissible under CPD policy. Therefore, COPA reached a finding of exonerated regarding the officers' use of force.

Approved:



Andrea Kersten
Deputy Chief Administrator – Chief Investigator


March 30, 2020

Date

⁷ General Order G03-02-01.

Appendix A

Assigned Investigative Staff

Squad#:	
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	Andrea Kersten